



# STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

LINDA LINGLE  
GOVERNOR

MARILYN A. MATSUNAGA  
ADMINISTRATOR

1177 Alakea St. #402, Honolulu, HI 96813 Phone: 587-0788 Fax: 587-0783 www.shpda.org

April 22, 2003

## CERTIFIED MAIL, RETURN RECEIPT REQUESTED

IN THE MATTER OF	)	CERTIFICATE OF NEED
	)	APPLICATION
	)	NO. 03-07
PDMI-Care Inc.	)	
	)	
Applicant	)	
	)	DECISION ON THE MERITS
	)	

## DECISION ON THE MERITS

The State Health Planning and Development Agency (hereinafter "Agency"), having taken into consideration all of the records pertaining to Certificate of Need Application No. 03-07 on file with the Agency, including the written and oral testimony and exhibits submitted by the applicant and other affected persons and the recommendations of the Oahuwide Certificate of Need Review Committee, the Agency hereby makes its Decision on the Merits, including findings of fact, conclusions of law, order, and written notice on Certificate of Need Application No. 03-07.

## I

## BACKGROUND

1. This is an application for a Certificate of Need ("Cert.") for the establishment of an 18 bed Special Treatment Facility (STF) at 84-1064 Lahaina Street, Waianae, HI at a capital cost of \$275,000.
2. The applicant, PDMI-Care Inc. (PDMI), is a nonprofit corporation organized under the laws of the State of Hawaii.

3. The Agency administers the State of Hawaii's Certificate Program, pursuant to Chapter 323D, Hawaii Revised Statutes (HRS), and Title 11, Chapter 186, Hawaii Administrative Rules (HAR).

4. On March 24, 2003, the applicant filed with the Agency a Certificate of Need application for the establishment of an 18 bed Special Treatment Facility (STF) at 84-1064 Lahaina Street, Waianae, HI at a capital cost of \$275,000 (the "Proposal"). On April 3, April 4, and April 8, 2003, the applicant submitted additional information. On April 9, 2003, the application was determined to be complete. For administrative purposes, the Agency designated the application as Cert. #03-07.

5. The period for Agency review of the application commenced on April 12, 2003, the date on which written notification appeared in the newspaper of general circulation pursuant to section 11-186-39 HAR.

6. The Oahuwide Certificate of Need Review Committee met at a public meeting on April 14, 2003 and recommended approval of this application by a unanimous vote of 5 in favor and none opposed.

At the meeting, the Oahuwide Certificate of Need Review Committee asked questions and expressed concern as to why the applicant was applying for a Special Treatment Facility (STF) certificate of need. Committee members commented that they were not clear on how the applicant's contract with the Department of Health (DOH) matched the services of a STF. The applicant responded that that it was applying for a STF certificate of need per directions from the DOH.

As background, the Agency shared that it had the same questions and concerns about the appropriateness of this applicant fitting the STF definition. So last August, the Agency wrote to DOH-Adult Mental Health Division (AMHD) asking for clarification. DOH-AMHD responded in December with the attached letters from it and the DOH-Office of Health Care Assurance (OCHA). Their letters stated that *"PDMI-Care, Inc. is operating as a STF in the apartment building located at 2708 Kolo Place, Honolulu, Hawaii"* and *"although an on-site visit was not made to the houses located at Waianae, it is the OHCA's understanding per interviews with staff, that similar services are being provided at that site as well."* Copies of these letters are attached hereto and form part of this Decision on the Merits.

After further discussion and review of the letters, the Committee continued to question whether or not the applicant is a STF. The members also expressed concerns about the DOH contracting cycle as well as the continuity of care for the patients. Based on the acknowledgement of the signed statements of the DOH-OCHA and the DOH-AMHD, the Committee proceeded with the review of the application. The Committee indicated that they were proceeding with the review

based on the understanding that the DOH letters would be attached to the decision and that their concerns about the appropriateness of the STF standing be summarized in the decision as well.

7. The Certificate of Need Review Panel and the Statewide Health Coordinating Council reviews of the application were waived pursuant to Section 323D-44.6 HRS.
8. This application was reviewed in accordance with Section 11-186-15, HAR.
9. Pursuant to Section 323D-43(b), HRS:  
  
“(b) No Certificate shall be issued unless the Agency has determined that:  
  
(1) There is a public need for the facility or service; and  
(2) The cost of the facility or service will not be unreasonable in the light of the benefits it will provide and its impact on health care costs.”
10. Burden of proof. Section 11-186-42, HAR, provides:  
  
“The applicant for a certificate of need or for an exemption from certificate of need requirements shall have the burden of proof, including the burden of producing evidence and the burden of persuasion. The degree or quantum of proof shall be a preponderance of the evidence.”

## II

### FINDINGS OF FACT

#### A. REGARDING THE RELATION OF THE PROPOSAL TO THE STATE HEALTH SERVICES AND FACILITIES PLAN (HAWAII HEALTH PERFORMANCE PLAN) OR “H2P2”

11. The applicant states that its Proposal addresses the objectives of H2P2 by reducing “the risk of injury and violence to the severely mentally ill and the community through a safe, secure, home environment with qualified staff supporting the individual's stabilization and integration into the community.”
12. The applicant states that the Proposal achieves one of the desired characteristics of a health care delivery system by supporting “collaborative relationships between the Adult Mental Health Division (AMHD), Hawaii State

Hospital, Community-Based Case Management, Community Mental Health centers, hospitals, emergency services and community housing services."

13. The applicant states that the Proposal positively impacts the following behavioral health process measures in Chapter XI of H2P2: BHP-1 Comprehensive Spectrum of Care, BHP-2 Continuity of Care, and BHP-3 Accessibility of Services.

14. The applicant also states that the Proposal positively impacts the following behavioral health outcome measures in Chapter XI of H2P2: BHO-2 Incidence /Prevalence of Substance Abuse, BHO-5 Incidence /Prevalence of Mental Illness, BHO-6 Consumer Satisfaction, and BHO-7 Relapse/Recidivism.

15. The Agency finds that this criterion has been met.

#### **B. REGARDING NEED AND ACCESSIBILITY CRITERIA**

16. The applicant states that the target population for the Proposal "is the severely mentally ill consumer, 18 years or older, with or without a physical disability who are in need of specialized supported residential care treatment."

17. The applicant states that it is "the only facility on Oahu to provide specialized supported residential care treatment to people with or without a physical disability."

18. The applicant states that it currently has 15 beds available at its location and is at 95% occupancy.

19. The applicant projects that the Proposal will achieve an average occupancy of 100% (18 beds) during the first year of operation.

20. The applicant states that its services are accessible to all who are appropriate for its program. The applicant accepts "all referrals from the AMHD without regard to income, race, ethnicity, gender, disability, or age."

21. The Agency finds that the need and accessibility criteria have been met.

#### **C. REGARDING QUALITY AND LICENSURE CRITERIA**

22. The applicant states that the Proposal will increase the quality of care being delivered to the target group by:

- providing for medication monitoring by a psychiatric nurse under the direction of a psychiatrist 24 hours per day, seven days per week
- providing a family environment that promotes and encourages independence
- providing consistency and structure to its consumers

23. The applicant states that it is certified by AMHD and will seek a Special Treatment Facility license from the Department of Health for the proposed facility. The applicant states that it intends to apply and obtain CARF accreditation.

24. The applicant states that its ratio of staff to consumer is 1:4 or less and includes a staff of 4 Life Coaches, 1 Life Coach who is also a Medical Assistant, .5 Registered Nurse as well as a psychiatrist who is available 24 hours per day, seven days per week.

25. The Agency finds that quality and licensure criteria have been met.

#### D. REGARDING THE COST AND FINANCIAL CRITERIA

26. The applicant states that the primary cost of the Proposal is the operating costs and that the primary financing for these operating costs is derived from a contract with AMHD, with the balance coming from private pay consumers.

27. The applicant states that there are no capital funds required for the Proposal.

28. The applicant projects total revenue of \$453,600 and net profit of \$26,000 for year 1 of the Proposal and total revenue of \$496,800 and net profit of \$41,400 for year 3 of the Proposal.

29. The applicant states that the project is expected to reduce health care costs by providing a less expensive alternative (\$70-\$250 per patient day) to hospitalization of its consumers at the Hawaii State Hospital (approximately \$750 per patient day).

30. The Agency finds that cost and financial criteria have been met.

**E. REGARDING THE RELATIONSHIP OF THE PROPOSAL TO THE EXISTING HEALTH CARE SYSTEM OF THE AREA**

31. The applicant states that the Proposal will fill a gap in the health care delivery pattern by providing "an alternative to institutionalized living for the SMI (severely mentally ill) population."

32. The applicant states that its Proposal will improve the availability of health care in the community by providing aftercare to consumers who are refused admission by other agencies and cannot be admitted to the state hospital.

33. The applicant states that its Proposal will allow other health care providers such as hospitals or community health centers the option of placing consumers in a safe, therapeutic environment as opposed to commitment to the state hospital.

34. The Agency finds that this criterion has been met.

**F. REGARDING THE AVAILABILITY OF RESOURCES**

35. The applicant states that the Proposal requires 4 Life Coaches, 1 Life Coach who is also a Medical Assistant, .5 Registered Nurse as well as a psychiatrist who is available 24 hours per day, seven days per week. The applicant states that this staff is hired and in place.

36. The applicant states that there are no capital funds required for the Proposal.

37. The Agency finds that this criterion has been met.

**III**

**CONCLUSIONS OF LAW**

Having taken into consideration all of the records pertaining to Certificate of Need Application No. 03-07 on file with the Agency, including the written and oral testimony and exhibits submitted by the applicant and other affected persons, the recommendations of the Oahuwide Certificate of Need Review Committee, and based upon the findings of fact contained herein, the Agency concludes as follows:

The applicant has met the requisite burden of proof and has shown by a preponderance of the evidence that the Proposal meets the criteria established in Section 11-186-15, HAR.

Accordingly, the Agency hereby determines that, pursuant to Chapter 323D-43(b):

- (1) There is a public need for this proposal; and
- (2) The cost of the proposal will not be unreasonable in light of the benefits it will provide and its impact on health care costs.

ORDER

Pursuant to the findings of fact and conclusions of law contained herein, IT IS HEREBY DECIDED AND ORDERED THAT:

The State Health Planning and Development Agency hereby APPROVES and ISSUES a certificate of need to PDMI-Care Inc. for the proposal described in Certificate Application No. 03-07. The maximum capital expenditure allowed under this approval is \$275,000. Copies of letters from DOH-Adult Mental Health Division (AMHD) and DOH-Office of Health Care Assurance (OCHA) indicating DOH determined status of applicant facility as a STF are attached hereto and form part of this Decision on the Merits.

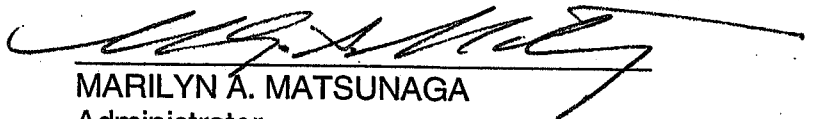
WRITTEN NOTICE

Please read carefully the written notice below. It contains material that may affect the Decision on the Merits. The written notice is required by Section 11-186-70 of the Agency's Certificate of Need Program rules.

The decision on the merits is not a final decision of the Agency when it is filed. Any person may request a public hearing for reconsideration of the decision pursuant to Section 11-186-82 of the Agency's Certificate of Need Program rules. The decision shall become final if no person makes a timely request for a public hearing for reconsideration of the decision. If there is a timely request for a public hearing for reconsideration of the decision and after the Agency's final action on the reconsideration, the decision shall become final.

DATED: April 22, 2003  
Honolulu, Hawaii

HAWAII STATE HEALTH PLANNING  
AND DEVELOPMENT AGENCY



MARILYN A. MATSUNAGA  
Administrator



## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the attached Decision on the Merits, including findings of fact, conclusions of law, order, and written notice, was duly served upon the applicant by sending it by certified mail, return receipt requested, in the United States Postal Service addressed as follows on April 22, 2003.

David Berggren, Ph.D.  
Executive Director  
PDMI-Care Inc.  
85-175 Farrington Hwy. #A 418  
Waianae, HI 96792

HAWAII STATE HEALTH PLANNING  
AND DEVELOPMENT AGENCY

  
MARILYN A. MATSUNAGA  
Administrator

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Sent To David Berggren, Ph.D.  
Executive Director  
Street, Apt. No., PDMI-Care Inc.  
or PO Box No.  
City, State, ZIP+4 85-175 Farrington Hwy. #A-418  
Waianae, HI 96792




STATE OF HAWAII  
DEPARTMENT OF HEALTH  
ADULT MENTAL HEALTH DIVISION  
P.O. Box 3378  
HONOLULU, HAWAII 96801-3378

In reply, please refer to:  
File:

December 6, 2002

TO: Ms. Marilyn A. Matsunaga, Administrator  
State Health Planning and Development Agency

FROM: Thomas W. Hester, M.D.  
Chief, Adult Mental Health Division 

SUBJECT: PDMI

RECEIVED  
STATE OF HAWAII  
DEPARTMENT OF HEALTH  
ADULT MENTAL HEALTH DIVISION  
DEC 10 AM 11

RECEIVED  
DEC 10 AM 11

This is in response to your letter dated December 3, 2002. First, I wish to apologize for not having responded to your request dated September 6, 2002 which was in follow up to previous correspondence. Regrettably, because several staff are involved with various aspects of this particular program, each thought the other had been involved in responding back to you.

As you are aware, Physically Disabled Mentally Ill- Care (PDMI) is contracted by Adult Mental Health Division (AMHD) to provide highly Specialized Housing and specialized Case Management Wrap-Around Services.

As an AMHD contracted provider PDMI provides services to serious and persistent mentally ill individuals on the island of Oahu. Many of these individuals have experienced extensive institutionalization at the Hawaii State Hospital (HSH) and have been unable to successfully function in other community settings. Other individuals in, or admitted to the program are significantly physically and cognitively handicapped related to organic issues in addition to suffering from a serious and persistent mental illness.

The consumers that PDMI serve require frequent and intensive supports to function in the community. Without the planned individualized programming that PDMI is required to provide under their contract agreement with this Department, many of these individuals would be institutionalized or re-institutionalized at HSH.

PDMI services require psychological, medical, nursing and rehabilitation assessments in order to develop a recovery-based plan for each consumer that they serve.

Ms. Marilyn A. Matsunaga  
December 6, 2002  
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Based on your concern, on October 1, 2002, at 9:00 a.m., staff from the Department of Health's Office of Health Care Assurance (OHCA) and Adult Mental Health Division (AMHD) conducted a joint unannounced visit. The purpose of this visit was to determine that the residents residing at 2708 Kolo Place were receiving care, treatment, and/ or rehabilitative services pursuant to Title 11, Chapter 98 Special Treatment Facilities Rules and Regulations.

PDMI staff stated residents were assisted with their personal care and activities of daily living, medication administration, provision of case management with the development and implementation of an integrated treatment plan, transportation to medical/psychiatric appointments, and the provision of psychosocial rehabilitation skill building in life/care skills, grocery shopping, and behavior modification programming to control behaviors.

Records reviewed by OCHA and AMHD staff documented that the services stated above were provided. Also documented were interventions to control and modify aggressive and inappropriate behaviors, 1:1 counseling, monitoring of seizure activity, observation of resident responses to medications administered as needed for agitation and aggression, and [provided] treatment/programs as defined in Title 11 Chapter 98 STF Hawaii Administrative Rules (HAR).

In a letter dated November 14, 2002 to Ms. Sharon fountain of PDMI from the Acting Chief of OCHA the following was stated:

"Statement of Fact

1. PDMI-Care, Inc staff are providing the residents with 24 hour residential services, which includes an individual assessment for care, treatment and rehabilitative service for residents that require behavioral health services/care; and
2. PDMI-Care, Inc. is operating as a STF in the apartment building located at 2708 Kolo Place, Honolulu, Hawaii, without a license."

The letter further states that "...the following Chapters and sections of the Hawaii Revised Statutes (HRS) and Hawaii Administrative Rules Title 11, Chapter 98, STF Rules and Regulations sections apply to your situation:" These sections include the STF definition and licensing requirements, and monetary fines provided by Statute.

The program has been informed that if it is not licensed, or does not apply for licensure it must appropriately place all residents and terminate services by close of business  
December 20, 2002. (Attachment)

Ms. Marilyn A. Matsunaga  
December 6, 2002  
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I hope the above description of programming and services addresses your questions regarding PDMI, and explains why the Division does not consider it a "transitional housing" complex and why we are requiring licensure as a Special Treatment Facility.

The AMHD is making a concerted effort to work closely with OHCA to ensure that all specialized residential programs contracted by the Division are licensed appropriately.

Your assistance and favorable consideration of the above is appreciated.

Attachment

MIN J. CAYETANO  
GOVERNOR OF HAWAII



BRUCE S. ANDERSON, Ph.D., M.P.H.  
DIRECTOR OF HEALTH

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P.O. BOX 3378  
HONOLULU, HAWAII 96801

In reply, please refer to:  
File:

November 14, 2002

CERTIFIED MAIL  
#7002 0510 0004 3291 8729

Ms. Sharon Fountain  
Vice President-Treasurer  
PDMI-Care, Inc.  
85-175 Farrington Highway, Apt. A418  
Waianae, Hawaii 96792

Dear Ms. Fountain:

**RE: OPERATING A SPECIAL TREATMENT FACILITY (STF) WITHOUT A LICENSE,  
AT 2708 KOLO PLACE, HONOLULU, HAWAII**

On October 1, 2002, at 9:00 a.m., staff from Department of Health Office of Health Care Assurance (OHCA) and Adult Mental Health Division conducted a joint unannounced visit to determine if in fact the residents residing at 2708 Kolo Place were receiving care, treatment, or rehabilitative services pursuant to Title 11, Chapter 98 Special Treatment Facilities Rules and Regulations.

During the on-site visit, PDMI, Inc. staff informed OHCA staff Mrs. Dianne M. Okumura, Acting Chief and Mrs. Shirley N. Souza, Unit Supervisor that PDMI-Care, Inc. assists residents with their personal care and activities of daily living, medication administration, transportation to medical/psychiatric appointments, develop and implement a resident care treatment plan, train residents in life/care skills, grocery shopping, behavior modification to control behaviors, participate in activities such as picnics, beach outings in the facility van, provide 1:1 services as appropriate, prepare meals with resident assistance.

Several residents interviewed confirmed the aforementioned and added that they can learn to cook their own meals, and go out, do chores and earn extra money for personal items.

Resident records reviewed documented that the aforementioned were provided with the following also included, intervention to control and modify aggressive and

Ms. Sharon Fountain  
November 14, 2002  
Page 2

inappropriate behaviors, 1:1 discussions/counseling, monitoring of seizure activity, observation of resident responses to medications administered as needed for agitation and aggression, and provide treatment/programs as defined in Title 11 Chapter 98 STF Hawaii Administrative Rules (HAR).

Statement of Fact

1. PDMI-Care, Inc. staff are providing the residents with twenty-four hour residential services, which includes an individual assessment for care, treatment, and rehabilitative service for residents that require behavioral health services/care; and
2. PDMI-Care, Inc. is operating as a STF in the apartment building located at 2708 Kolo Place, Honolulu, Hawaii, without a license.
3. Although an on-site visit was not made to the houses located at Waianae, it is the OHCA's understanding per interviews with staff, that similar services are being provided at that site as well. Therefore, it is determined that that facility is also operating as an unlicensed STF.

Be advised that the following Chapters and sections of the Hawaii Revised Statutes (HRS) and Hawaii Administrative Rules Title 11, Chapter 98, STF Rules and Regulations sections apply to your situation:

§11-98-2 Definitions. "Special Treatment Facility" or "STF" means a public or private facility which provides a therapeutic residential program for care, diagnosis, treatment or rehabilitation services for emotionally distressed persons, mentally ill persons, persons suffering from substance abuse, or developmentally disabled persons.

§11-98-03 Licensing. (a) Every facility shall have a current and valid license approved by the director and issued when the facility has met all of the requirements of this chapter.

HRS 321-20 Remedies. ...The order may require that the alleged violator do any or all of the following: cease and desist from the violation, pay an administrative penalty not to exceed \$1,000 for each day of violation...

Ms. Sharon Fountain  
November 14, 2002  
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**Action taken:**

Please be advised that should you determine that you do not wish to apply for a Special Treatment Facility, then you shall cease and desist the unlicensed activity effective immediately. Appropriate placement of all residents and termination of therapeutic/supportive services shall be completed by close of business December 20, 2002. Additionally continuation of unlicensed activity will subject you to the imposition of administrative penalties and/or fines effective that date.

You have the right to appeal this decision and contest the alleged violations by presenting evidence and argument on all issues involved in an administrative hearing. If you would like a hearing, you must mail your written request for a hearing to the Office of Health Care Assurance, 601 Kamokila Boulevard, Room 361, Kapolei, Hawaii 96707 within twenty (20) days of receipt of this letter. You have the right to retain counsel to represent you at this hearing or you may represent yourself. You also have the right and opportunity to appeal the decision of the hearings officer in writing to the Director of Health within the twenty (20)-day notice period of proposed action or decision under Chapter 91, HRS, and Department of Health Rules of Practice and Procedure.

Sincerely,



Dianne M. Okumura, R.N., M.P.H.  
Acting Chief  
Office of Health Care Assurance

c ✓ Dr. Thomas Heaster, Chief, AMHD  
Arthur Indiola, Deputy Attorney General  
Loretta J. Fuddy, Deputy Director of Health